

OFFICE OF THE STATE INSPECTOR GENERAL

**Department for the Blind
and Vision Impaired
Virginia Enterprise Business Program**

Performance Audit
February 2021



**Michael C. Westfall, CPA
State Inspector General
Report No. 2021-PA-004**



COMMONWEALTH OF VIRGINIA
Office of the State Inspector General

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February 24, 2021

The Honorable Ralph Northam
Governor of Virginia
P.O. Box 1475
Richmond, VA 23219

Dear Governor Northam,

The Office of the State Inspector General (OSIG) completed an audit of the Department for the Blind and Vision Impaired Virginia Enterprise Business Program; the final report is attached.

OSIG would like to thank Commissioner Raymond Hopkins and his staff for their cooperation and assistance during this audit.

Sincerely,

2/25/2021

X Michael C. Westfall

Michael C. Westfall, CPA
State Inspector General
Signed by: Westfall Michael wzg39453

cc: The Honorable Clark Mercer, Chief of Staff to Governor Northam
The Honorable Dr. Daniel Carey, Secretary of Health and Human Resources
Raymond Hopkins, Commissioner, Department for the Blind and Vision Impaired

HIGHLIGHTS

Virginia Department for the Blind and Vision Impaired Virginia Enterprise Business Program

What OSIG Found

VEB Manages the Program Admirably and Recognizes the Need to Expand Opportunities

The Office of the State Inspector General (OSIG) commends the Virginia Enterprise Business program (VEB) for managing Randolph-Sheppard Act requirements and ensuring there is a surplus to support the vendor operators during the COVID-19 pandemic. In addition, VEB is analyzing additional business ventures in the event that vending services do not provide the necessary income for the vendor operators going forward.

Waiver Notification Documentation Not Adequate

In accordance with the requirements of the Randolph-Sheppard Act and *Code of Virginia* § 51.5-89, VEB is responsible for evaluating potential vending sites at federal and state buildings. VEB's process includes providing a waiver to the agency when a location is not viable in accordance with program requirements. Neither VEB's process nor the waiver properly communicate VEB's authority.

Oversight of Vendor Operator Financials Was Not Provided

VEB and its nominee need to provide more oversight of the vendor operators' monthly financial reports. Since the vendor operators took over VEBs accounting in January 2018, the nominee has not performed any audits of the information submitted. The nominee had planned to start audits in spring 2020, but the pandemic and closure of many of the facilities prevented that.

Management concurred with all four findings and plans to implement corrective actions from June 30, 2021, to December 31, 2021.

Why OSIG Conducted This Audit

OSIG performed this audit to assess the Vending Facility program authorized by the Randolph-Sheppard Act, which provides persons who are blind or visually impaired with remunerative employment and self-support through the operation of vending facilities on federal and other property.

OSIG also sought to identify opportunities for improvement so VEB can better assist vendor operators in running their vending operations.

What OSIG Recommends

- Develop policies and procedures for evaluating vending sites, including standard documentation useful to all sites.
- Include the requirements of the Randolph-Sheppard Act in waiver notifications.
- Develop processes to track and follow up on sites issued waivers in order to ensure VEB is notified of all potential opportunities.
- Conduct audits once operations resume.
- Update procedures to include how the results will be used, how often the records will be audited, how and when training will be required and the penalties for fraudulent or mismanagement of operations by the vendors.



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BACKGROUND

The Vending Facility program authorized by the Randolph-Sheppard Act (Act) provides persons who are blind or visually impaired with remunerative employment and self-support through the operation of vending facilities on federal and other property. The Act, established in 1936, was intended to enhance employment opportunities for trained, licensed blind persons to operate facilities. The law was subsequently amended in 1954 and again in 1974 to ensure individuals who are blind or visually impaired are a priority in the operation of vending facilities, which included cafeterias, snack bars and automatic vending machines that are on federal property.

The Act's priority has broadened in most states through state laws to include state, county, municipal and private locations. In Virginia, *Code of Virginia (Code)* § 51.5-78 states, "The Department [for the Blind and Vision Impaired] is hereby authorized to operate vending stands and other business enterprises in public and private buildings for the purpose of providing blind persons with employment, enlarging the economic opportunities of the blind, and stimulating the blind to make themselves self-supporting." Under the Randolph-Sheppard Act, state licensing agencies recruit, train, license and place individuals who are blind as operators of vending facilities located on federal and other properties. The Act authorizes a blind or visually impaired individual licensed by the state licensing agency to conduct specified activities in vending facilities through permits or contracts.

The VEB has used a nominee (a nonprofit agency or organization designated by the state licensing agency through a written agreement to act as its agent in the provision of services to blind licensees under the state's Vending Facility program) since 1957 to assist in ensuring compliance with the Randolph-Sheppard Act. At the end of federal fiscal year 2019, there were vending facilities on 49 federal properties, nine state properties and 38 highway vending locations at rest areas, welcome centers and truck stops. There were 35 blind or visually impaired vendors and a third party serviced the highway vending locations.

SCOPE

The audit scope covered operations by VEB under the Department for the Blind and Vision Impaired (DBVI) as it relates to the adherence to the Randolph-Sheppard Act from July 2018 through June 2020.

OBJECTIVES

Objectives of this audit were to:

- Determine if VEB is managing its services under the Randolph-Sheppard Act to maximize the number of service operator jobs available to the blind and vision impaired.
- Determine if VEB is properly managing the service operators to ensure that reports are accurate and the set-aside calculated for VEB operations is reasonable based on operator profit.
- Determine if the funds earned through VEB programs are being used to advance the opportunities to the blind and vision impaired through other areas of DBVI.

METHODOLOGY

OSIG conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that OSIG plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for the findings and conclusions based on the audit objectives. OSIG believes that the evidence obtained provides reasonable basis for the findings and conclusion based on the audit objectives.

OSIG applied various methodologies during the audit process to gather and analyze information pertinent to the audit scope and to assist with developing and testing the audit objectives. The methodologies included the following:

- Conducting interviews, observations and walk-throughs and examining policies and procedures to gain an understanding of the audit area.
- Reviewing the processes and assessing them for efficiency and effectiveness.
- Collecting and analyzing relevant data.
- Benchmarking business processes, activities and performance metrics against similar activities in other states.

COMMENDATIONS

Commendation 1 - VEB Manages the Program Admirably

DBVI's VEB vendor operator program has been using the current nominee since July 1957. During that time, the nominee has managed to accumulate a reserve that, during the closing of many vendor operations in 2020, has provided a fair minimum return to support the vendor operators. Once the facilities begin to reopen, it is anticipated that the remaining surplus will be enough to help the vendor operators with the restart of their operations. VEB and the nominee understand and properly manage the requirements of the Randolph-Sheppard Act. The Act requires the revenue generated to be used to support the vendors, and the nominee does this with startup funds; equipment maintenance and replacement, if necessary; pensions; keeping their own management costs down and assisting the vendors with any other support they need to succeed.

Commendation 2 - VEB Recognizes the Need to Expand Opportunities

VEB has developed an evaluation process to expand job opportunities for individuals who are blind or vision impaired. This process involves assessing new types of business industries to determine if VEB can successfully create both jobs and business opportunities to provide a self-sustaining business program. Both VEB and the nominee collaborate on the process of researching new industries, currently janitorial services and fire extinguisher inspections, through the creation of new business plans. Proactively making the decision to diversify its business areas helps VEB ensure success of its program. This allows VEB to expand opportunities to provide those who are blind or vision impaired with the ability to run their own business.

FINDINGS

Finding 1 - Waiver Notification Documentation Not Adequate

The Randolph-Sheppard Act gives blind vendors priority in the operation of vending facilities on any federal property, requiring federal buildings in the Commonwealth to procure vending operations through VEB first. *Code* § 51.5-89 extends this first priority to state buildings except in specific instances listed in the *Code*.

In accordance with the requirements, VEB is responsible for evaluating potential vending sites at federal and state buildings. This evaluation involves obtaining information about the location, type of vending and number of potential clients. Once this information is obtained, VEB determines if the estimated profits from the site can provide a fair minimum wage for a vendor operator. If VEB determines the site will not work, it will issue a waiver to the agency allowing agencies to find other vending sources. The process for evaluating vendor sites incorporates all of the necessary requirements to determine if the site location is viable in accordance with the program requirements, but is not documented to ensure the process remains consistent in future years.

VEB's process includes providing a waiver to the agency when a location is not viable in accordance with the program requirements. Neither VEB's process nor the waiver properly communicates VEB's authority as follows:

- Requirements of the Randolph-Sheppard Act to ensure compliance for this and future projects for federal buildings
- Requirements of the *Code of Virginia* to ensure compliance for this and future projects for state buildings.
- Request for a timeline related to the contract for vending operations for VEB to reevaluate the site at the end of the contract.

Recommendation(s):

1. Develop policies and procedures for evaluating vending sites, including standard documentation useful to all sites.
2. Include the requirements of the Randolph-Sheppard Act in waiver notifications.
3. Request contract timelines from sites issued a waiver indicating what type of vending service was placed at the site.
4. Develop processes to track and follow up on sites issued waivers in order to ensure VEB is notified of all potential opportunities.
5. Communicate changes to the process to ensure that all state agencies are aware of *Code* requirements.

Management Response:

DBVI concurs with the observation and the recommendations:

The Department for the Blind and Vision Impaired welcomes the OSIG input on this important matter. The law grants DBVI a priority in establishing vending facilities in government buildings and this priority is not waived by the Agency. We may determine an opportunity is not viable or that the VEB is unable to establish and operate a facility in this specific location at the present time, but it is understood that the Program wishes to exercise priority granted to the blind in the future once the contract expires.

We will leverage this finding by OSIG in ongoing discussions with the Department of General Services (DGS) on how best to communicate the Randolph-Sheppard Program to Virginia Contract Officers (VCO). VCOs use DGS' Agency Purchasing and Surplus Property Manual (APSPM) as their roadmap for procurement compliance and they are the parties who secure vending services for state buildings. Since the VEB "priority" is not a mandatory source under the Virginia Public Procurement Act (VPPA), it is not mentioned in the associated APSPM regulations. Previous discussions with DGS to educate VCOs on the VEB via the APSPM have failed. Perhaps this finding will be the catalyst needed to add the VEB to the VPPA and, as a result, the APSPM.

While DBVI does have a sound method of evaluating and tracking potential vending sites, there is certainly opportunity to improve the documentation and follow-up process.

Management Corrective Action(s):

Our Corrective Action Plan for this finding will include:

1. Reengaging DGS to win support for statutory and regulatory changes, aligned more closely to the federal language, to better educate procurement professionals on how to support the program and comply with the law,
2. Communicating *Code* authorities and reasons for declining a potential site more effectively in written response to state agencies after an evaluation, and
3. Developing an annual review process of sites previously passed on to understand their resulting vending contracts and durations.

Responsible Positions: Deputy Commissioner for Enterprises

Estimated Completion Date: December 31, 2021

Finding 2 -Oversight of Vendor Operator Financials Was Not Provided

VEB and its nominee need to provide more oversight of the vendor operator's monthly financial reports. OSIG selected three months of financial reports for a sample of five vendors to determine the accuracy of the profit and loss statements submitted to the nominee. Based on the documentation reviewed from the vendors selected, OSIG found the following:

- Twelve out of 15 profit and loss statements had invoices that were not included in the statements.
- Documentation supporting revenue did not agree for 10 out of 15 profit and loss statements reviewed.

Using the profit and loss statements as submitted to the nominee, the formula for calculating set-asides was applied correctly. However, the overall set-aside was incorrect because the profit and loss statements, as submitted to the nominee, missed revenue and invoices as noted above.

Since the vendors took over their accounting in January 2018, the nominee has not performed any audits of the information submitted. The nominee had planned to start audits in spring 2020, but due to the pandemic and closure of many of the facilities, they had not started. Procedures had been developed and approved in August 2019, but the following was missing:

- How the results will be used and reported.
- How often the records will be audited.
- How and when additional training will be required.
- Penalties for fraudulent or mismanaged operations by the vendors.

Not only will an audit help ensure the profit and loss statements are completed properly, but it will also be an opportunity to train any vendors who are not maintaining their documentation in ways that are easy to gather for VEB's audits.

Recommendation(s):

1. Begin conducting audits once operations resume.
2. Update procedures to include how the results will be used, how often the records will be audited, how and when training will be required and how vendors will be penalized for mismanagement of operations by the vendors.

Management Response:

DBVI concurs with observation and recommendations:

The Department for the Blind and Vision Impaired is in agreement with the findings and recognizes the need for more oversight in this area.

Management Corrective Action(s):

To address this issue we will put in place a Corrective Action Plan that will include the following items at a minimum:

- Detail how financial audits will be conducted and by whom.
- Address how often vendor financial records will be audited.
- Explain how the financial audits results will be documented, used and reported.
- Establish when additional vendor training will be required.
- Set penalties for fraudulent or mismanagement of financials by the vendors.

Responsible Positions: Deputy Commissioner for Enterprises

Estimated Completion Date: June 30, 2021

Finding 3 - Documentation to Support the Determination of Set-Aside is Not Maintained

VEB did not maintain documentation of the set-aside to support that the calculated amount will cover the intended costs of the program. VEB charges a set-aside to the vendors based on the net income from their vending operations. The set-aside is charged in accordance with federal code, specifically 34 CFR §395.9. In accordance with the federal code, the allowable uses of these funds are for maintenance and replacement of equipment, purchase of new equipment, management services, assuring a fair minimum of return to vendors or the establishment and maintenance of retirement or pension funds. 34 CFR §395.9 states, “The State licensing agency shall establish in writing the extent to which funds are to be set aside or caused to be set aside from the net proceeds of the operation of the vending facilities...”. The set-aside was 10 percent after the first \$1,000 of net income of the vendor operator calculated monthly. In addition to reducing financial accounting services provided, the set-aside was reduced to four percent of net income calculated monthly, effective October 1, 2019. VEB did not have any documentation to support that the estimated change will cover the intended costs of the program. As a result, the reasonableness of the set-aside amount cannot be determined to ensure the funds necessary will cover the expenses of the provided services.

Recommendations:

1. Document how the set-aside is calculated.
2. Maintain documentation of the set-aside calculation and review it annually to ensure the assumptions are still valid and the reserves are still adequate to cover the intended services.

Management Response:

DBVI concurs with observation and recommendations:

The Department for the Blind and Vision Impaired agrees with this Finding. DBVI currently provides the Federal Department of Education and Rehabilitation Services Administration (RSA) a notification of any changes made to the vendor Set-Aside. The VEB does justify the Set-Aside adjustments during internal conversations and budget development. The Program is self-sufficient so the projections were effective.

DBVI does, however, acknowledge that more documentation on the justification and determination of Set-Aside needs to be formalized and maintained for historical records.

Management Corrective Action(s):

DBVI's Corrective Action Plan will ensure that a formalized process is implemented and retained when determining the set-aside rate based on projected revenues and costs of the VEB.

Responsible Positions: Deputy Commissioner for Enterprises

Estimated Completion Date: June 30, 2021

Finding 4 - Contract with Nominee Does Not Include all Services Performed

DBVI has a contract with the nominee to perform services to support the Randolph-Sheppard Act. Due to the evolution of the program over the years, the nominee has taken on several services that have not been added to the contract. These items include:

- Performing vendor audits, including highway vending revenue audits.
- Creating and maintaining equipment listings.
- Completing annual evaluations of vendors.
- Performing evaluations of new business ventures.

In addition, the reviews of the nominee's adherence to the services provided were not documented. Contract deliverables help ensure the program runs smoothly. With these items not specifically identified in the contract, VEB runs the risk that the nominee discontinues these services in the future. If the nominee were to change, these services would need to be continued with the new nominee.

Recommendations:

1. Review services performed versus required in the contract.
2. Update the contract to ensure all needed services are included.
3. Review the completion of services or hire someone to perform the review to assure the services have been completed.
4. Document the annual assessment as evidence the nominee has been reviewed and the results of the review.

Management Response:

DBVI concurs with observation and recommendations:

The Department for the Blind and Vision Impaired is in agreement with the findings and recognizes the need to ensure the contract is current.

Management Corrective Action(s):

To address this issue we will review and update the nominee contract to include all services currently performed and add any additional services necessary for the continued proper administration of the Virginia Enterprises for the Blind Program.

Responsible Positions: Deputy Commissioner for Enterprises

Estimated Completion Date: June 30, 2021

AUDIT RESULTS

This report presents the results of OSIG's audit of the DBVI VEB program. The following audit testing was performed with immaterial, if any, discrepancies noted:

- Review of employment of the blind and vision impaired within VEB; determination that VEB could not require vendors to hire persons with disabilities.
- Potential jobs for the blind and vision impaired within VEB.
- Promotion opportunity for vendors within VEB.
- Promotion of VEB program to potential vendors.
- Retirement fund for vendors and nominee.
- Financial audit of nominee.
- Usage of surplus funds.
- Benchmarking with other states.
- Decision to use a nominee for program management rather than VEB.

Based on the results and findings of the audit test work conducted at DBVI, OSIG concluded that internal controls were operating properly as it relates to the VEB program, except as identified in the report.

| FINDING | RECOMMENDATION | CORRECTIVE ACTION | DELIVERABLE | ESTIMATED COMPLETION DATE | RESPONSIBLE POSITION |
|--|---|--|--|---|--|
| Waiver Notification Documentation Not Adequate | <p>1. Develop policies and procedures for evaluating vending sites, including standard documentation useful to all sites.</p> <p>2. Include the requirements of the Randolph-Sheppard Act in waiver notifications.</p> <p>3. Request contract timelines from sites issued a waiver indicating what type of vending service was placed at the site.</p> <p>4. Develop processes to track and follow up on sites issued waivers in order to ensure VEB is notified of all potential opportunities.</p> <p>5. Communicate changes to the process to ensure that all state agencies are aware of the code requirements.</p> | <p>1. Reengaging DGS to win support for statutory and regulatory changes, aligned more closely to the federal language, to better educate procurement professionals on how to support the program and comply with the law,</p> <p>2. Communicating <i>Code</i> authorities and reasons for declining a potential site more effectively in written response to state agencies after an evaluation, and</p> <p>3. Developing an annual review process of sites previously passed on to understand their resulting vending contracts and durations.</p> | <p>1. Meeting agenda, notes with DGS.</p> <p>2. Formal memo to DGS.</p> <p>3. Program documentation and tracker.</p> <p>4. Added language to APSPM.</p> <p>5. Training session in future VCM/VCO/VC A classes.</p> <p>6. Training session at VPPA Forum.</p> | <p>1. 2Q21</p> <p>2. 2Q21</p> <p>3. 2Q21</p> <p>4. 3Q21</p> <p>5. 3Q21</p> <p>6. 4Q21</p> | <p>1. VEB and DCOE</p> <p>2. VEB>DCOE> Commissioner</p> <p>3. VEB, BOB > DCOE > Commissioner</p> <p>4. DCOE</p> <p>5. VEB and DCOE</p> <p>6. VEB and DCOE VEB>DCOE> Commissioner</p> |

| FINDING | RECOMMENDATION | CORRECTIVE ACTION | DELIVERABLE | ESTIMATED COMPLETION DATE | RESPONSIBLE POSITION |
|--|---|--|---|--|---|
| <p>Improve Oversight of Vendor Operator Financials</p> | <p>1. Begin conducting audits once operations resume. 2. Update procedures to include how the results will be used, how often the records will be audited, how and when training will be required and the penalties for fraudulent or mismanagement of operations by the vendors.</p> | <p>1. Detail how financial audits will be conducted and by whom. 2. Address how often vendor financial records will be audited. 3. Explain how the financial audits results will be documented, used and reported. 4. Establish when additional vendor training will be required. 5. Set penalties for fraudulent or mismanagement of financials by the vendors.</p> | <p>1. Establish VEB policy and instructions. 2. Quarterly 3. See #1 4. See #1 5. See #1</p> | <p>1. 2Q21 2. 2Q21 3. 2Q21 4. 2Q21 5. 2Q21</p> | <p>VEB and BOB with review from DCOE and approval from Commissioner</p> |
| <p>Documentation to Support the Determination of Set Aside is Not Maintained</p> | <p>1. Document how the set aside is calculated. 2. Maintain documentation of the set-aside calculation and</p> | <p>DBVI's Corrective Action Plan will ensure that a formalized process is implemented and retained when determining the set-</p> | <p>1. Complete formal process 2. Maintain documentation; compile historic</p> | <p>1. 2Q21 2. 2Q21</p> | <p>1. VEB>DCOE> Commissioner 2. VEB and BOB</p> |

| FINDING | RECOMMENDATION | CORRECTIVE ACTION | DELIVERABLE | ESTIMATED COMPLETION DATE | RESPONSIBLE POSITION |
|---|---|--|--------------------|---------------------------|--------------------------------------|
| | review it annually to ensure the assumptions are still valid and the reserves are still adequate to cover the intended services. | aside rate based on projected revenues and costs of the VEB. | context | | |
| | | | | | |
| Contract with Nominee Does Not Include all Services Performed | <ol style="list-style-type: none"> 1. Review services performed versus required in the contract. 2. Update the contract to ensure all needed services are included. 3. Review the completion of services or hire someone to assure they have been completed. 4. Document the annual assessment as evidence the Nominee has been reviewed and the results of the review. | To address this issue, we will review and update the nominee contract to include all services currently performed and add any additional services necessary for the continued proper administration of the Virginia Enterprises for the Blind Program. | 1. Update contract | 1. 2Q21 | 1. VEB>BOB> DCOE> Commissioner |